

Frequently Asked Questions regarding *Citizens United v. F.E.C.*

In *Citizens United v. FEC*, issued on January 21, 2010, the United States Supreme Court held that federal law prohibitions against corporate spending on independent expenditures or electioneering communication are unconstitutional. Colorado laws in this area are modeled after the federal laws that were struck down.

On March 8, 2010, the Colorado Supreme Court held that the Colorado laws banning corporate spending on electioneering and independent expenditures are unconstitutional. The Colorado Supreme Court extended this holding to such spending by labor organizations as well.

What kind of spending by corporations was addressed in *Citizens United*?

The Supreme Court decision addressed two types of political spending known as independent expenditures and electioneering communications. Both types of expenditures are those made to support or oppose a candidate for office, but they are made *independently* of the candidate or candidate committee. These include expenditures for radio, television, or print advertisements urging the electorate to vote for or against a particular candidate or candidates and are paid for by a person or entity other than the candidate or their committee.

What is the current state of Colorado law with respect to spending by corporations and labor organizations for independent expenditures and electioneering?

The Colorado Supreme Court, in *In re: Interrogatories propounded by Governor Bill Ritter, Jr., concerning the effect of Citizens United v. Federal Election Commission*, 558 U.S. _____ (2010) on certain provisions of article XX[V]III of the Constitution of the State of Colorado, held that the Colorado ban on the use of corporate or labor organization funds for electioneering and independent expenditures is unconstitutional. Therefore, while the laws will remain “on the books,” they are now unenforceable. Corporations and labor organizations may engage in spending for electioneering and independent expenditures, subject to reporting requirements.

Can corporations make campaign contributions in Colorado?

No. *Citizens United* did not address the ban on direct campaign contributions to candidates, political committees, or political parties, by corporations. Therefore, the Colorado ban on such contributions still applies.

What are “electioneering communications” and “independent expenditures?”

Independent expenditures are expenditures that are not controlled by, or coordinated with, a candidate for office. Electioneering communications are a type of independent expenditure, and include those broadcast, print, or otherwise distributed ads advocating the election or defeat of a candidate that occur within 30 days of a primary election or 60 days of a general election.

Reporting requirements applicable to both independent expenditures and electioneering communications are outlined in Colorado law. These, too, were unaffected by *Citizens United*, and corporations and labor organizations are subject to disclosure requirements for these types of spending.